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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION

11 In re:

No. 17-43041

12 Twila McEachin Lankford,
13
14 Debtor.

Chapter 11

Adv. Proc. No. 18- 04057

15 Twila McEachin Lankford,
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17 Plaintiff,

Date: December 7, 2018

Time: 9:00 a.m.

Courtroom: 220

18 v.

19 Lavette Lankford and
20 Trecine Lankford,

21 Defendants.

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PLAINTIFF'S PRETRIAL CONFERENCE STATEMENT

Twila McEachin Lankford, Plaintiff and debtor in possession in the chapter 11 case, *In re Lankford*, submits the following Pretrial Conference Statement pursuant to the courts "Order Setting Pretrial Conference" [Doc #24].

Plaintiff seeks a declaratory judgment under 11 U.S.C. § 363(h)(1)-(4) permitting her to sell both the estate's interest and the interests of Defendants in the real property, fixtures and

1 improvements at 2116-2118 High Street, Oakland, California ("High Street").

2 **I. LEGAL AND FACTUAL ISSUES TO BE DECIDED AT TRIAL.**

3 The court must decide if Plaintiff held an undivided interest as a joint tenant in High
4 Street with the Defendants at the commencement of the chapter 11 case.

5 Defendant Lavette Lankford's "Amended Answer to Complaint" [Doc # 19] denies the
6 allegation of Plaintiff's complaint that Plaintiff holds an undivided interest in High Street as a
7 joint tenant with Defendants.¹

8 If Plaintiff holds a joint tenancy interest in High Street with Defendants, the court may
9 then authorize Plaintiff to sell both the estate's interest and the interests of Defendants, under 11
10 U.S.C. § 363(b) or (c), free and clear of Defendants' interests if: (1) partition in kind of High
11 Street among the estate and Defendants is impracticable; (2) sale of estate's undivided interest
12 would realize "significantly less" for the estate than a sale of the property free of Defendants'
13 interests; (3) the benefit to the estate of the sale of the estate's and the co-owners' interests in the
14 property outweighs any detriment to the Defendants; and (4) the property is not used in the
15 production, transmission or distribution for sale of electric energy or natural or synthetic gas for
16 heat, light or power. 11 U.S.C. § 363 (h) (1) – (4).

17 Plaintiff believes that there is no dispute regarding subsections (1) and (4) of section
18 363(h). The court must decide whether a sale of Plaintiff and Defendants' interests in High
19 Street will generate more than a sale of Plaintiff's undivided interest (§ 363(h)(2)), and whether
20 the benefit to the estate of a sale of the estate's and the Defendants' interests in High Street
21 outweighs the detriment to the Defendants of such a sale (§ 363(h)(3)).

22 **II. SETTLEMENT**

23 Plaintiff would like to reach an agreement with Defendants to obtain a loan secured by
24 High Street sufficient to pay off the delinquent loan secured by High Street, to cure the defaults
25 of the loans secured by the other properties co-owned by Plaintiff and Defendants, and to pay the
26 unsecured claims and administrative claims against the estate. Plaintiff is not optimistic that
27 such an agreement can be reached. Plaintiff requests that the court authorize her to proceed with

28 ¹ Defendant Trecine Lankford was served with the summons and complaint [see Doc #6] but he has not filed an
answer or other responsive pleading to the complaint.

1 a sale of High Street as soon as possible because the property is in danger of being foreclosed.

2 **III. WITNESSES AND SCOPE OF TESTIMONY**

3 Plaintiff expects to call two witnesses. Twila Lankford will identify the grantors and
4 grantees of certain transfer deeds for High Street and state the purpose of the grant deeds.
5 Plaintiff will also testify regarding the debt secured by High Street and the value of the High
6 Street property. Plaintiff will also call a real estate broker, Deanna Baldrige of Ridge Realty in
7 Oakland, to testify regarding the value of High Street.

8 Dated: November 27, 2018

/s/ Lawrence L. Szabo

Lawrence L. Szabo, Attorney for Twila
Lankford, Plaintiff